

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

KENNETH E. CHITTUM, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 1:17-01357

BRANCH BANKING AND TRUST
COMPANY (BB&T), et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is a motion to enforce their settlement with plaintiff filed by defendants Specialized Loan Servicing LLC, FV-1, Inc., FV-1, Inc. in Trust for Morgan Stanley Mortgage Capital Holdings, LLC and Morgan Stanley Mortgage Capital Holdings, LLC. (ECF No. 54). On July 25, 2018, the court held a hearing on that motion. At that hearing, counsel informed the court that the Settlement Agreement and Release had been executed by plaintiff. That agreement obligates plaintiff to pay defendants \$30,000.00. Counsel for plaintiff informed the court that plaintiff lacks sufficient funds to pay the total amount due under the settlement agreement. See also ECF No. 58.

For reasons placed on the record at the hearing, the motion to enforce the settlement is **GRANTED**. Plaintiff was directed to tender \$21,500.00 of the total amount owed to defendants' counsel by the close of business on July 25, 2018. Furthermore,

plaintiff has until Friday, August 24, 2018, to tender the remaining \$8,500.00 owed to defendants under the settlement agreement. Failure to do so will result in an award of interest and any other relief that the court deems appropriate. Insofar as defendants' motion requests an award of attorney's fees and costs, the motion is **DENIED**.

The Clerk is directed to send copies of this Memorandum Opinion and Order to all counsel of record.

IT IS SO ORDERED this 26th day of July, 2018.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge